

Town of Milton

115 Federal Street
Milton, DE 19968



www.milton.delaware.gov

Phone: 302-684-4110

Fax: 302-684-8999

ORDINANCE NO. 2020-005

AN ORDINANCE TO AMEND CHAPTER 188 OF THE TOWN CODE, ENTITLED “SUBDIVISION OF LAND,” INCLUDING RETITLING SAID CHAPTER AS “SUBDIVISION AND LAND DEVELOPMENT.”

WHEREAS, the Charter of the Town of Milton vests power in the Mayor and Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

WHEREAS, the Mayor and Town Council of the Town of Milton have previously enacted an ordinance governing Subdivision of Land, codified as Chapter 188 of the Town Code; and

WHEREAS, the Mayor and Town Council held an open meeting on the 6th day of July, 2020, to consider amendments to Chapter 188;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton, a majority thereof concurring, that the following revisions hereby be incorporated into Chapter 188 of the Town Code:

Section 1. Make deletions shown by strike-through and additions shown by underline:

Chapter 188. Subdivision of and Land Development

[HISTORY: Derived from Ch. 17 of the prior Code; effective 1-1-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission — See Ch. 30.

Building construction — See Ch. 85.

Clean hands policy — See Ch. 95.

Floodplain management — See Ch. 125.

Sewers — See Ch. 170.

Streets and sidewalks — See Ch. 183.

Vehicles and traffic — See Ch. 209.

Water — See Ch. 215.

Zoning — See Ch. 220.

ATTACHMENTS

~~188a Minor Street Road Section~~ ~~188b Minor Collector Street Road Section~~ ~~188c Major Collector Street Road Section~~ ~~188d Alley Road Section~~ ~~188e PCC Sidewalk Detail~~ ~~188f PCC Curb and Sidewalk Section~~ ~~188g Curb Ramp, Type 3~~ ~~188h Curb Ramp, Type 2~~ ~~188i Curb Ramp, Type 3~~ ~~188j Detectable Warning Truncated Dome Details~~

§ 188-1. Title.

This chapter shall be known and cited as "The Town of Milton ~~Land~~ Subdivision and Land Development Ordinance."

§ 188-2. Purpose.

~~A. The purpose of this chapter is to provide rules, regulations and standards for land subdivision in the Town in order to promote the public health, safety, convenience and the financial and general welfare of the Town. It shall be administered to insure orderly growth and development, the conservation, protection and proper use of land, and adequate provision for vehicular and pedestrian traffic, utilities and services of and in the Town. The provisions of this chapter shall be considered the minimum requirements for the protection of the public health, safety and welfare of the Town; guide and coordinate the harmonious and sustainable development of the Town; to preserve, in accordance with present and future needs, the health, safety, order, convenience, and public welfare of the citizens of the Town; to ensure that the arrangement and design of subdivisions and land developments conform to the Comprehensive Plan, the Delaware Code, Chapter 220, entitled "Zoning," and all other ordinances, codes, regulations, plans and maps adopted in furtherance thereof; to assure sites are suitable for building purposes and human habitation and use; to provide adequate open spaces for recreation, light and air; to minimize any adverse impacts of land use and whenever possible produce positive and sustainable environmental outcomes; to provide convenient distribution of traffic; to facilitate and accommodate prospective pedestrian and vehicular movement, fire protection, and the rendition of other essential services through a coordinated system and design of streets; to ensure the coordination and conformity of subdivision and land development plans with the public improvement plans of the Town, County and State regarding such facilities as streets, sewers, and other improvements; to establish standards to ensure that developments are environmentally sound by requiring preservation of existing natural features, and wetlands in areas affected through excavation, construction, or other land development activities; to establish minimum standards for the design and construction of improvements that aid in the use and enjoyment of land, such as streets, sidewalks, adequate drainage and water and sewage facilities, and that would aid in precluding adverse environmental effects, such as sedimentation, soil erosion, flooding, and water pollution.~~

~~B.~~ Any action taken pursuant to the terms of this chapter shall give primary consideration to the above-mentioned matters and to the welfare of the entire municipality.

~~C.~~ This chapter identifies a uniform and equitable procedure for the review and process of subdivision and land development applications.

§ 188-3. Components.

A. This chapter consists of the regulations contained herein.

~~B. The tables included in this chapter are part of the regulations of this chapter.~~

~~C.~~ The drawings and graphics ~~contained~~ referenced in this chapter are part of the regulations of this chapter.

§ 188-4. Review of subdivision and land development applications required.

After the effective date of this chapter, all applications for subdivision and land development approvals of any kind shall be reviewed under this chapter. This chapter will remain in effect until modified, amended or rescinded by the Town Council.

§ 188-5. Conflict with other provisions.

A. These subdivision regulations shall be considered the minimum requirements for the protection of the public health, safety and public welfare of the Town of Milton. Any action taken by the Town under the terms of this chapter shall give primary consideration to the above-mentioned matters.

B. However, where this chapter imposes a greater restriction or requirement than is imposed by other resolutions, ordinances, rules, regulations, easements, covenants, or agreements the stricter provision shall govern.

§ 188-6. Word usage.

A. The singular number includes the plural, and the plural the singular, unless the context clearly indicates the contrary.

B. Words in the present tense shall include the past and future tenses, and the future the present.

C. The word "shall" is mandatory. The word "may" is permissive.

D. The meaning of the word "adjacent" shall include "abutting" and "adjoining."

§ 188-7. Definitions.

The following definitions shall be applicable to this chapter unless the context indicates to the contrary:

ADJACENT

Physically touching or bordering upon; sharing a common boundary, but not overlapping.

ACCESS

A way or means of ingress, egress or regress, such as; a driveway, street, road, or highway that connects through private or public property.

ACCESSWAY

A connection, right-of-way or easement, that provides access to a specific destination or public or private property for pedestrian, bicycle or emergency use.

APPLICANT

A landowner or developer, as hereinafter defined, who has filed application for development, including ~~his~~ their heirs, successors and assigns.

BUFFER YARDS

An area of land forming a visual and/or physical separation or barrier between two uses. In the case of a visual barrier, the land shall be covered with natural plantings or man-made material to provide a physical screen limiting visual access and reducing noise.

CONSTRUCTION ENTRANCE

A temporary access for the ingress and egress of construction vehicles.

COVERAGE

That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

CROSSWAY

A public way intended for pedestrian use, ~~which~~ that excludes motor vehicles and cuts across a block in order to furnish improved access to adjacent streets or properties.

CUL-DE-SAC

~~A minor street having but one end open for vehicular traffic and with the other end permanently terminated by a turnaround for vehicles.~~

DELAWARE MUTCD

The latest published edition of the Delaware Manual on Uniform Traffic Control Devices.

DELDOT

The Delaware Department of Transportation.

DEVELOPER

Any landowner or agent, ~~or of~~ of such landowner, who makes or causes to be made an application for approval of a site subdivision or land development plan.

DRAINAGE RIGHT-OF-WAY

The lands required for the installation of stormwater sewers or drainage ditches and providing for the flow of water therein to safeguard the public against flood damage.

FINAL PLAT

~~The final map of all or a portion of the subdivision which is presented to the Town Council for final approval in accordance with this chapter and which, if approved, shall be filed in the office of the Recorder of Deeds, in and for Sussex County.~~

FLOODPLAIN

Any land area susceptible to being inundated by water from any source. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood (one-hundred-year flood) on the most recent Flood Boundary and Floodway Map prepared by the United States Department of Housing and Urban Development and the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency, copies of which are kept on file in the Town Office. The low lands adjoining the channel of a river, stream or watercourse, lake or other body of standing water, which have been or may be inundated by floodwater. The channel of a stream or watercourse is a part of the floodplain in accordance with the National Flood Insurance Program (NFIP) as administered by the Federal Emergency Management Agency (FEMA).

FUNCTIONAL CLASSIFICATION MAP

A map produced by the DELDOT identifying and classifying all state-maintained roadways.

HOMEOWNERS' ASSOCIATION

A body of persons legally responsible for the maintenance of private open spaces and/or common facilities. Also known as "maintenance corporation."

INTERCONNECTIVITY

A physical connection of access and accessways between two or more lots, subdivisions or developments.

INTRA-CONNECTIVITY

A physical connection of access and accessways within a single lot, subdivision or development.

LAND DEVELOPMENT

The development of a lot, tract, or parcel of land into two or more lots, units, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development. Land development includes: redevelopment; subdivision; construction of dwelling or commercial units or structures, or any combination thereof, to be subject to Delaware's Unit Property Act; construction of dwelling, commercial, or industrial units or structures, or any combination thereof, that will require the construction of additional utility facilities or the enlargement of the capacity of existing utility services, or both.

LOT

A contiguous parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same and ~~which~~ that abuts and is accessible from a private or public street.

LOT, CORNER

A lot situated at the junction of and adjacent to two or more intersecting streets or alleys, when the interior angle of intersection does not exceed 135°.

LOT COVERAGE

See "coverage."

LOT, DEPTH OF

The mean distance from the front street line of a lot to its rear line.

LOT FRONTAGE

A lot line ~~which~~ that is coincident with the right-of-way line of a ~~public~~ road or street access.

LOT LINES

The lines bounding a lot as defined herein.

LOT, THROUGH

A lot ~~which~~ that faces on two streets at opposite ends of the lot and ~~which~~ is not a corner lot.

LOT WIDTH

The shortest horizontal distance between the side lot lines measured at the required building setback line. If the angle, between the front and sidelines, is less than 90°, the lot width shall be measured from side to side of right angle to the length of the setback line.

MAJOR SUBDIVISION

All subdivisions not classified as partitioning or minor subdivisions.

MINOR SUBDIVISION

Any subdivision containing three or ~~more~~ fewer lots fronting on an existing state or ~~town~~ Town street, not involving any new street or road or the extension of any ~~city~~ Town or county facilities or does not directly ~~effect~~ affect drainage on a state or ~~municipal~~ Town street, and not adversely affecting the development of the remainder of the parcel or adjoining property.

OPEN SPACE

An area, ~~which~~ that is not developed with principal or accessory structures and ~~which~~ is intended to provide light and air, and is designed for environmental, scenic and or recreational purposes. Open space may include, but is not limited to, decorative planting, preservation of existing natural areas, walkways, active and passive recreation areas and playgrounds. For calculation purposes, open space shall not be deemed to include driveways, roadways, parking areas, tidal wetlands, or stormwater management ponds.

PARTITIONING

Any subdivision containing not more than two lots fronting on an existing state, county or Town street, not involving any new street or road or the extension of Town facilities and not adversely affecting the development or the remainder of the parcel or adjoining property.

PERFORMANCE GUARANTEE

Any security, ~~which~~ that may be accepted in lieu of a requirement that certain improvements be made before the Town Council approves a ~~plat~~ record plan, including performance bonds, escrow agreements and other similar collateral surety agreements.

PLAN, PRELIMINARY

A plan of subdivision or land development, including all required supplementary data, showing the approximate proposed street and site layout as a basis for consideration by DELDOT and the Town prior to preparation of the record plan.

PLAN, SKETCH

An informal plan indicating salient existing features of a tract and its surroundings, including the general layout of the proposed subdivision or land development.

PLAN, RECORD

A complete subdivision or land development plan, including all required supplementary data that defines property lines, proposed streets and other improvements, and easements.

PLAT

The map of a subdivision.

SKETCH PLAT

~~The map of a subdivision of sufficient accuracy to be used for the purposes of discussion and classification and meeting the requirements of this chapter.~~

STREET

Any access, street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way ~~which~~ that is an existing state, county or Town road, or a street or way shown upon a plat record plan. For purposes of this chapter, streets shall be classified as follows:

A. ALLEY

~~See "interior streets."~~ A narrow public or private thoroughfare, not exceeding 16 feet in width that provides a secondary means of vehicular access to abutting properties and is not intended for general circulation.

B. ARTERIAL STREETS

~~Streets, which are used primarily for fast or heavy traffic.~~ A street or road that serves or is intended to serve as the principal trafficway between separated areas of the region and is designated as a "limited-access highway," "major thoroughfare," "parkway," or other equivalent term to identify those streets that comprise the basic structure of the regional traffic plan.

C. COLLECTOR STREETS

A public access street that provides connections between state-maintained roads and local public streets. Direct access service to abutting land is subordinate to providing service to through traffic movements.

D. CUL-DE-SAC

A minor street having but one end open for vehicular traffic and with the other end permanently terminated by a turnaround for vehicles.

E. INTERIOR STREETS

Private or public access streets for the use of the property owner/s and are used primarily for vehicular service access to the back or side of properties otherwise abutting on a street (i.e., ~~alleys~~ lanes, driveways, aisles).

F. LANES

Private or public access streets for the use of the property owner/s and are used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

D. G. MAJOR COLLECTOR STREETS

~~Streets, which~~ that carry traffic from minor collector streets to the major system of arterial streets and highways, including the principal entrance streets of a large residential development over 200 units and streets for circulation within such a development. Driveway access to major collector streets shall not be permitted without Council's approval.

E. H. MINOR COLLECTOR STREETS

~~Streets, which~~ that carry traffic from minor collector streets to the major system of arterial streets and highways, including the principal entrance streets of a medium density residential development between 50 and 200 units and streets for circulation within such a development.

F. I. MINOR STREETS

Streets, ~~which~~ that are used primarily for access to the abutting properties. The number of dwelling units on noncollector streets shall not exceed 50.

G. J. SERVICE STREETS

Streets that are parallel to and adjacent to arterial streets and major collector streets, and ~~which~~ that provide access to abutting properties and protection from through traffic. Refer to "minor streets."

K. STUB STREETS

Streets not exceeding 300 feet in length.

SUBDIVIDER

Any person, firm, corporation, trust or any other legal entity commencing proceedings under the provisions of this chapter to effect a subdivision of land hereunder for ~~himself~~ itself or for another. Where "subdivider" is used it could also mean the same as "developer."

SUBDIVISION

The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development. Subdivisions also include resubdivision, and, where appropriate to the context, relates to the process of subdividing or to the lands or territory divided.

TOWN COUNCIL

Includes the Mayor and the Council of the Town of Milton, as defined in § 1-1.

WETLANDS

Those areas of land, ~~which~~ that fall within the definition of wetlands currently used by the U.S. Army Corps of Engineers, or those areas of land within the definition of wetlands adopted by the State of Delaware ~~in accordance with Army Corps of Engineers.~~

§ 188-8. Fees.

A. The fees for partitioning, minor subdivisions and major subdivisions shall be the fees established in the currently effective Town of ~~Milton~~ Fee Schedule.

B. Additional costs. The applicant will be responsible for reimbursing the Town of ~~Milton~~ for all expenses incurred by the Town of ~~Milton~~ related to the application in regards to engineering fees, attorneys' fees, or any other professionals used by the Town of ~~Milton~~ in regards to said application and site development.

C. The cost of construction, installation, and inspection of all improvements required pursuant to this chapter shall be borne by the developer.

D. All construction work on improvements required pursuant to this chapter shall conform to standards established by the Town and are subject to inspection and approval by the Town Engineer or other individuals authorized by the Town during and upon completion of such construction work or both. Based on recommendations of the Town Engineer, the Town Council shall establish a schedule of fees to be paid by the developer in order to reimburse the Town for the cost of inspecting all work on construction and improvements. Costs reimbursed shall be only those actually incurred by the Town in inspecting work for which the Town has the authority to establish standards or has need to ensure that future efficient maintenance can be accomplished adequately.

§ 188-9. Certain transfers prohibited.

~~It shall be unlawful for any subdivider/developer~~ No subdivider or developer, before final approval has been obtained, ~~to shall~~ transfer, sell or to agree to transfer or sell, as owner or agent, any land ~~which~~ that forms a part of a subdivision, absent prior approval of the Town Council. For the purposes of this section, each transfer or sale or each agreement to transfer or sell shall be a separate violation. The provisions of this section shall be in addition to any other remedies ~~which~~ that may be available to the Town.

§ 188-10. Application for subdivision or land development approval.

~~A. The owner~~ developer of any land within the Town shall apply for and obtain the approval of the Town Council, pursuant to the provisions of this chapter, before subdividing or ~~resubdividing~~ re-subdividing any land within the Town.

B. The application shall be accurately and clearly completed in a manner acceptable to the Town. Applications that the Town deems to be unsatisfactory shall be returned to the applicant for correction and resubmission.

C. The application shall be subject to the requirements of Chapter 95, Clean Hands Policy, of the Code of the Town of Milton.

~~A. D.~~ The final approval for a subdivision or land development shall expire within one year after the date of the approval by the Town Council, unless substantial construction has commenced ~~commenced~~, and the applicant has fulfilled all of the conditions mandated by the Town Council as a contingency of its approval. However, upon a showing of good cause, an applicant may request and receive up to three one-year extensions, as long as all County, State and Federal outside agency approvals are current, before being required to resubmit a new application for subdivision or land development to the Town.

~~B. E.~~ For the purpose of this section, the term "substantial construction" shall mean that the right-of-way has been cleared, the roadway has been rough graded, the drainage system and/or stormwater management facilities have been rough graded, and erosion and sediment control measures are in place and being actively maintained.

~~C. F.~~ Any complete application for a subdivision filed prior to the adoption of this chapter, or prior to the adoption of an applicable amendment to this chapter, will be subject to the conditions of the previous ordinance.

§ 188-11. Standards of subdivision or land development plan plat.

A. The subdivision or land development plan plat shall conform to the design standards that will encourage good development patterns within the Town. The Town's requirements of streets, drainage rights-of-way, storm sewers, school sites, public parks and playgrounds shall be satisfied before approval of a subdivision or land development plan plat. Five percent of the total gross area to be developed will be considered the minimum amount to be set aside as public-open space. This does not include streets, sidewalks, rights-of-way, tidal wetlands, or stormwater management ponds. The streets, drainage rights-of-way, storm sewers, or sanitary sewer plans shall be such as to lend themselves for to harmonious development of the Town and enhance the public welfare in accordance with the design standards set forth in this chapter.

B. Information regarding how and when the applicant proposes to provide and install required water supply, sanitary sewers or other means of sewage disposal, street pavements, buffers, curbs and gutters, open space improvements, landscaping, street lighting, signage, sidewalks, and drainage structures shall accompany the preliminary subdivision or land development plan.

§ 188-12. Lot design.

The design criteria for lot design shall be as follows:

- A. Lot dimensions and areas, including setbacks, shall be not less than the requirements of Chapter 220, Zoning, of the Code of the Town of ~~Milton~~.
- B. Insofar as is practical, side lot lines shall be at right angles to straight streets, and radial to curved streets, except where the Town determines a variation in this requirement will provide an improved street and lot layout.
- C. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra-width line and all ~~set-backs~~ setbacks shall be measured from such line.
- D. Where there is a question as to the suitability of a lot for its intended use due to factors such as flood conditions or similar circumstances, the Town Council may, after adequate investigation, withhold approval of such areas.
- E. Double frontage and reverse frontage lots shall not be approved unless, in the judgment of the Town Council, such frontage lots shall be required to establish a buffer zone ~~and/or~~ screen planning or where their use is essential to overcoming special topographic problems or to separating residential development from heavy street traffic.
- F. Setbacks on lots with multiple street frontages, including corner lots, shall be in accordance with Chapter 220, Zoning.
- G. Lot lines shall follow municipal boundary lines rather than cross them.
- H. The lot design shall be such that all lots will provide satisfactory building sites properly related to topography and the character of surrounding area or development.
- I. In any case where public water supply or public sewerage is not available and the applicant receives waivers for connections thereto, all residential lots shall comply with the minimum lot dimensions and areas established by the State Department of Natural Resources and Environmental Control after appropriate water percolation tests and soil evaluations have been performed, provided that these lot size requirements are greater than required under Chapter 220, Zoning. Nothing in this Subsection shall be construed to contradict the requirements of Chapters 170, Sewers, and 215, Water.
- E. Excessive lot depth in relation to lot width shall be avoided. A ratio of depth to width of 2:1 is preferred.
- F. Corner lots shall have sufficient width to permit appropriate building setbacks from both streets in accordance with Chapter 220, Zoning.
- G. Every lot shall abut upon and have access to a street.
- H. For odd-shaped or triangular-shaped lots or lots fronting on cul-de-sac streets, the lot frontage measured at the right-of-way line may be reduced to not less than 1/2 of the minimum lot width required for the applicable zoning district. If the right-of-way line is a curved line, the lot width measurement shall be measured along the arc of the curved line.
- I. Lots adjoining a railroad right-of-way line shall observe a building setback of at least 50 feet from the right-of-way line and shall include an appropriate means of buffering such lots from the railroad lines.

§ 188-13. Required public open space and recreation facilities.

- A. The Town of ~~Milton~~ requires the reservation of open space, recreation, and other public facilities of not less than five percent of gross acreage as a condition of approval for all developments with any single-family, two-family, and multifamily dwellings dwelling residential developments requiring conditional use approval, site plan approval, or land and any subdivision or land development requiring approval by the Town Council.
- A. ~~The purpose of this section is to ensure that active recreation areas are provided as an integral design element within residential developments and that such facilities are of an adequate scale in~~

~~relation to the size of the residential development and provide residents with a variety of active recreational pursuits.~~

B. The purpose of this section is to preserve areas of open space within residential subdivisions and land developments that are designed to provide buffer spaces between developing areas, to preserve and enhance existing natural and historic features, and to establish a network of open spaces within the built environment to provide a balance between developed and undeveloped lands, wildlife habitat conservation, the preservation of scenic view corridors, and to provide residents opportunities to engage in passive recreation activities.

~~B. C.~~ C. The Town of Milton shall require requires the reservation of recreation areas, and the subsequent construction of recreation facilities, of a character, extent, and location suitable to the needs created by a subdivision or land development for recreation facilities as defined and in accordance with the design guidelines set forth.

D. Open space shall include land or an area of water, or combination of land and water, within a subdivision or land development site designed and available for the use and enjoyment of residents of the development, not including, off-street parking, areas set aside for public facilities and rights-of-way and any other lands unsuitable for development. The following are illustrative of the types of open space areas that may be deemed to serve buffering and preservation of natural features and count toward satisfaction of the passive open space requirements of this section:

(1) Mature forests and groves;

(2) Hedgerows;

(3) Watercourses;

(4) Riparian forest buffers;

(5) Historic, cultural, or archeological landmarks and resources;

(6) Landscaped buffers and berming designed to promote privacy;

(7) Open landscaped areas suitable for being used and enjoyed for purposes of informal and unstructured recreation and relaxation;

(8) Stormwater detention ponds when suitably designed to emulate natural features by incorporating irregular shapes, gradual slopes (no greater than 1:4) and appropriate landscape plantings, but excluding non-improvement easement areas (such features must be depicted on the required landscape plan); and

(9) Irreplaceable environmental assets with value that have been identified and documented as such by any federal, state, or local agency.

~~C. E.~~ E. The following are illustrative of the types of recreation areas and subsequent facilities that may be deemed to serve the open space needs and, therefore, count towards the minimum five-percent requirement:

(1) Any combination of improved walking, jogging or biking trails with gazebos and park benches along the paths;

(2) Swings, slides, and play apparatus;

(3) Tennis, handball, racquetball, basketball, and volleyball courts;

(4) Neighborhood/community swimming pools;

(5) Clubhouse with meeting, activity, fitness and exercise rooms;

(6) Baseball and soccer fields.

~~D. F.~~ F. Design guidelines for public open spaces.

(1) Recreation areas shall be accessible within the development and arranged in a manner that affords reasonable access to all residents within the development. When warranted, recreation areas can be dispersed throughout the development, provided that each remote location is accessible.

(2) Recreation areas shall be pedestrian oriented and designed with linkages to existing and planned public walkways and with other existing or planned recreation areas.

- (3) The nature and scope of planned recreation areas shall reflect an awareness of and sensitivity toward the anticipated age groups that would reside within the proposed development.
- (4) Designs shall consider the need for parking facilities associated with recreation areas.
- (5) No structure, equipment, or game court surface shall be located closer than 30 feet from any lot line.
- (6) Landscape buffering of parking areas, game courts, playground areas and other features as necessary to preserve and protect the interests of adjoining residential properties may be required.
- ~~E. G.~~ E. G. Ownership and maintenance of public open spaces. There shall be provisions that ~~insure~~ ensure that all public open space areas, and all other dedications and/or reservations of land not dedicated to the Town of ~~Milton~~ shall be owned and maintained by a responsible entity. These provisions shall be presented to the Town Council for review and shall be in a form acceptable to the Town Council. The developer shall either:
- (1) Retain ownership and maintenance responsibility of all open space areas; or
 - (2) Provide for and establish a legal entity such as a homeowners' association, community open space trust, or maintenance corporation for the purpose of ownership and maintenance of all common open space in the development in perpetuity.
- ~~F. H.~~ F. H. Homeowners' association requirements. If the developer proposes to establish a homeowners' association for purposes of ownership and maintenance of common open space, such association shall be governed by the following:
- (1) Membership in the organization shall be mandatory for all purchasers of properties within the development and their ~~heirs~~ successors and assigns. The members of the organization shall share equitably the costs of maintaining common open space and recreation areas in accordance with all applicable property maintenance ordinances of the Town of ~~Milton~~, as adopted and amended from time to time, in accordance with all record plan notes, and in accordance with procedures established by the homeowners' association.
 - (2) The homeowners' association shall be responsible for maintenance, insurance, taxes, fees, and other burdens customary to the ownership of real property and all improvements and constructions thereon, including but not limited to all recreation amenities, walkways, stormwater facilities, ponds, landscaping, and sanitary sewers and other utilities not owned by the Town of ~~Milton~~.
 - (3) The homeowners' association shall establish an escrow account or supply a bond listing the Town of ~~Milton~~ as the benefactor in the amount of fair market value of five years' salary costs and expenses for the maintenance, plus property taxes of the property/open space for the assessed value for a period of five years if the homeowners' association ever fails.
 - (4) Restrictive covenants shall be established that provide in the event the homeowners' association fails to maintain the open space according to the standards of this chapter and in accordance with the recorded ~~or approved~~ plan, the Town of ~~Milton~~ may:
 - (a) Demand that the deficiency of maintenance be corrected; or
 - (b) Enter the open space area to maintain same. The cost of such maintenance shall be charged to the homeowners' association; or
 - (c) The escrow or bond may be cashed in for full value and the Town takes control of the open area.
- ~~G. I.~~ G. I. Exemptions for small developments.
- (1) Residential subdivisions and land developments with less than 10 acres of gross land shall be exempt from the land requirements set forth in § 188-13 above, but shall require a payment to be made to the Town of ~~Milton~~ by the developer in lieu of dedicated open space.
 - (2) Phases or sections within developments that are commonly proposed for development shall not be considered as individual residential subdivisions or land developments qualified for exemptions under this section.
 - (3) The total amount of payment in lieu of open space at final approval shall be equivalent to the assessed preimprovement value of the land area required. The Town of ~~Milton~~ property tax appraisal

service shall determine the assessed preimprovement value of the land. If the Town of ~~Milton~~ and/or the developer do not agree on the land value estimate established by the appraiser, an independent third-party professional real estate appraiser, at the developer's expense, shall perform an appraisal. This appraisal shall be awarded on a competitive bid basis to a qualified, certified appraiser that submits the lowest bid. The Town of ~~Milton~~ shall manage the bid process.

§ 188-14. Construction phasing.

The ~~construction/improvement~~ construction and improvement of open space areas shall be completed in a proportion equal to or greater than the proportion of residential dwelling units completed, except that 100% of the recreation ~~areas/open areas~~ and open space shall be completed prior to issuing building permits for the final 20% of the dwelling units proposed, unless a written agreement providing otherwise is in place between the developer and the Town of ~~Milton~~. Building permits shall not be issued for dwelling units unless the requirements of this section are met.

§ 188-15. ~~Inspection of~~ Permitting, constructing, and inspecting improvements.

A. All of the improvements listed in this chapter shall be subject to inspection and approval by the Town Engineer or the Town's representative who shall be notified ~~24 hours~~ two working days prior to installation. No underground installation shall be covered until inspected and approved by the Town Engineer or other authorized Town representative.

B. Permitting, constructing, inspecting, and accepting subdivision streets, including industrial streets as defined by DELDOT, and off-site improvements.

(1) Samples of materials and every reasonable facility for ascertaining whether the work is in conformity with the provisions of these regulations and Town specifications shall be furnished to the designated Town officials.

(2) The purpose of these procedures is to ensure that construction within the proposed Town right-of-way is in compliance with this chapter, DELDOT Standard Specifications, Standard Construction Details, Construction Manual and other applicable DelDOT standards.

(3) The Town or its designee reserves the right to inspect and approve any construction associated within the proposed subdivision in accordance to § 188-15 and the inspection procedures outlined in the latest edition of the DelDOT Construction Manual. Additional inspection will be required for all proposed bridges.

(4) The Town, with the guidance of the Town Engineer, may make such changes, additions, and relocations to the approved plans that may be considered necessary to ensure compliance with any applicable design standards and ensure the safety of the public. Non-compliant structures and roadside obstructions including brick mailboxes shall be removed at the Town's direction prior to final acceptance. During review, the Town, with the guidance of the Town Engineer, may also make recommendations pursuant to the Town's sustainability plan.

(5) Once the developer believes all work is complete, it shall request a pre-final inspection. Once the pre-final inspection is completed and accepted by both the Town and the developer, an ADA accessibility inspection shall be scheduled. Once the accessibility inspection punch list items are completed and accepted, the developer may request a final inspection. The Town will then schedule a final inspection that shall be conducted by the Town Engineer. The Town's inspection personnel, accompanied by the developer, its contractor, or both, along with representatives of any appropriate county and municipal officials, shall inspect the site and determine those items of work, if any, that must be completed, repaired or replaced.

(6) Once the final inspections items of work have been completed, repaired, or replaced, the developer shall provide the following to the Town or its designee:

(a) As-built construction plans -- The as-built construction plans may initially be a print of the approved construction plan annotated in red to show all revisions. The developer's engineer shall prepare this plan and submit it to the Town Engineer or designee prior to eligibility for the issuance of the letter recommending acceptance. In addition, the developer's engineer shall also submit an electronic plan version of the as-built construction plans for the entire subdivision or land development to the Town Engineer, Public Works Supervisor of the Town or designee. The final as-built plans shall show in detail all as-built features, including: foundations; locations, lengths and elevations of pipe culverts; side ditches, ditch paving, and other drainage items added or altered; final checked stationing; and all other significant variations from the original plans. As-built plans are required as part of the final acceptance and as referenced in § 188-38.

(b) A letter from the Town stating that all work required by the land use agency is complete.

(c) A letter from DNREC or the DNREC-approved delegated agency stating that all work required by the Town is complete (if applicable).

(d) A letter from the homeowners' association providing its contact information.

(e) A fully executed affidavit to the Town from the developer releasing and indemnifying the Town from all claims as a result of any unpaid bills or obligations related to the subdivision or land development. The original affidavit shall be provided to the Town Manager of the Town prior to the issuance of the letter recommending acceptance.

(7) Once the Town Engineer is satisfied with the construction and the aforementioned prerequisites are met, the Town Engineer shall recommend final acceptance and the release of the security by the Town. The Town Engineer shall notify the Town prior to final acceptance.

(8) In the event of failure to perform the intended construction in accordance with the terms of the construction agreement as determined by the Town, the developer shall receive written notice and have fourteen days to provide the Town with an approved schedule for completion. If a schedule for completion has not been received within the specified time period, the developer shall receive a second written notice and have an additional seven days to meet in person with the Town and present an approved schedule for completion.

(9) Should the developer fail to provide a satisfactory construction schedule or fail to comply with the approved completion schedule, the Town shall have the right to collect the construction security to correct the condition. All costs incurred in the removal and correction of defective workmanship, materials, or both in excess of the construction security shall be borne by the developer.

(10) Withdrawal of subdivision street construction approval for failure to complete the intended construction in accordance with the terms of the construction agreement as determined by the Town shall be cause to increase the required construction security to 200% of the itemized cost estimate on future subdivision street construction projects proposed by the defaulting developer.

(11) Following completion of street construction and submission of required documentation to the satisfaction of the Town Engineer, the Engineer will recommend acceptance of the streets and shall direct the developer to prepare an "Acceptance Drawing and an Acceptance Statement" for signatures. Once accepted into the Town maintenance system, the developer shall be responsible for any failure of shared-use paths, sidewalks, pavement or drainage for three years from the date of acceptance, as noted in the standard construction agreement on file and available at Town Hall. If the developer fails to correct three-year good faith punch list items, this shall also be cause to increase the required construction security to 200% of the itemized cost estimate on future subdivision street construction projects. Once the three-year good faith punch list items have been corrected, standard security rates will be reinstated on future subdivision street construction projects.

(12) Upon acceptance of the streets into the Town maintenance system, the applicant shall be responsible for damage to the curb, gutter, shoulders, and drainage affected by any entrance construction.

(13) In subdivisions or land development projects where residential streets and cul-de-sacs have been completed and the collector street serving them is complete except for the final lift of asphalt pavement, the developer shall submit the completed residential streets and cul-de-sacs for acceptance. Additionally, the developer shall provide:

(a) One hundred fifty percent (150%) security for the cost to complete the collector street; and

(b) A letter to the Mayor and Town Council requesting acceptance of the submitted streets

(14) The developer shall provide the Town and its designated consultant inspectors access to all parts of the work and furnish such information and assistance as is required to make a complete and detailed inspection as described in DelDOT's current Standard Specifications.

(15) During construction, the developer shall provide the Town and its designated consultant inspectors at least two working days' notice of all major construction activities. These activities shall include, but are not limited to, the following:

(a) Installation of utilities;

(b) Installation of drainage pipe and all major structures;

(c) Underdrains;

(d) Test rolling of the subgrade;

(e) Placement of base material;

(f) Placement of curbing;

(g) Placement of paving material (underground utilities must be installed, and utility permits closed out prior to placement of paving and seeding. No underground installation shall be covered until inspected and approved by the Town Engineer or other authorized Town representative.); and

(h) Installation of sidewalk.

(16) An inspector designated by the Town must be present during the activities in the previous subsection. All materials shall be released, inspected, tested, and approved before being incorporated in the work in accordance with the most recent DelDOT's Standard Specifications Section 106 – Control of Material.

(17) All inspection of paving materials used and the placement of paving materials shall be in accordance with the contractor's quality control ("QC") plan. The contractor's QC plan shall be prepared in accordance with DelDOT's Special Provision 401699 – Quality Control/Quality Assurance of Bituminous Concrete.

(18) No inspection performed by or on behalf of the Town shall result in or be construed as creating any liability to the developer or any third party on the part of the inspector, the Town, or its agents, officers, and employees.

§ 188-16. Preservation of natural and historical features.

A. In addition to the other provisions contained within this chapter, the design and approval of a subdivision or land development plan shall include consideration of this section.

~~A.~~ B. Natural features, such as trees, brooks, hilltops, and views shall be preserved whenever possible in designing any subdivision or land development containing such features. Such features shall be preserved whenever they contribute to the preservation of a historic resource or provide a buffer between the historic resource and new development. Additionally, the developer shall:

(1) Integrate the proposed subdivision into existing terrain and surrounding landscape;

(2) Minimize the changes to grade and the removal of soil, trees, and vegetation; and

(3) Preserve open space and scenic views.

C. Historical features, such as graveyards, burial sites, artifact areas, and historic buildings, shall be preserved whenever possible, and lots shall be designed to minimize adverse impacts of new construction on these historic features and any historic resources. Protective techniques such as limits of disturbance, building restriction lines, and buffers shall be used.

~~B.~~ D. Grading fill topsoil and protections thereof:

(1) Grading shall be done to:

~~(a) meet~~ Meet the requirements of DNREC, Sussex Conservation District and the ordinances of the Town of Milton;

(b) Minimize erosion and sedimentation, changes in groundwater levels, increased rates of runoff, potential for flooding; and

(c) Maximize groundwater recharge in the design of the drainage system.

(2) All material to be used as fill, including the disposal of any soil accumulated during development, construction, and clearing of the land, must be reviewed by the Town ~~Council~~ Engineer before being used. The Town ~~Council~~ Engineer shall take into consideration the water table, drainage, and soil characteristics of the site in question when making such decision; and

(3) No topsoil shall be removed from the site during the course of development and construction but shall be pushed aside during such period while filling and grading. Such topsoil shall then be redistributed so as to provide at least six inches of cover to all areas not occupied by buildings or other facilities and shall be established so as to remain in place with the planting of an eighty-percent mixture of perennial grass seed.

§ 188-17. Utility installation requirement.

A. All gas, water, sewer, stormwater, electric and other mains, pipes and conduits, together with all service connections or laterals ~~which that be~~ are constructed to the property lines, shall be laid, where the need therefor can be reasonably determined, before streets, accessways or alleys shown on approved plans are paved.

B. As-built plans shall be provided to the Town and Town Engineer pursuant § 188-38 for all utility infrastructure constructed. No bond for any phase of the subdivision shall be released until said as-builts have been submitted and approved by the Town Engineer.

C. After such streets, accessways or alleys are paved, no openings shall be permitted in such paving for a period of five years, except by special permission of the Town Council.

§ 188-18. Utility and watercourse easements.

The criteria for utility and watercourse easements shall be as follows:

~~A. Easements along real property lines or elsewhere for utility installations may be required. Such easements shall be at least 15 feet wide and located in consultation with the companies and municipal departments concerned.~~ Easements shall be provided where necessary to meet public utility requirements. All lots shall have at least five-foot-wide easements along all lot lines for a total easement width of at least 10 feet along a lot line common to two lots. Easements of greater width may be required along lot lines or across lots, where necessary. Easements along perimeter boundaries of a subdivision shall be no less than 10 feet in width on the interior side of the boundary.

~~B. Where a proposed subdivision is traversed by a watercourse, drainage way, channel waterway, or stream, there shall be provided a stormwater easement or drainage right of way conforming substantially with the lines of such watercourse, at such further width or construction, or both, as will be adequate for the purpose, as determined by Town Council.~~ the developer shall make adequate provision for the proper drainage of surface water, including the provision of easements along such streams, waterways and drainage ways.

C. No building or structure shall be proposed or constructed on any recorded easement without the authorization of the Town Council or its designee and an utility provider having jurisdiction, except for nonpermanent structures or those not on a permanent foundation. A disclosure shall be provided on the building permit application that an easement exists and the structure may need to be removed at no cost to the Town or the utility provider having jurisdiction.

D. The Town Council shall have the authority to approve the placement of all such easements as requested by the Town staff, utility provider, or regulatory agency.

§ 188-19. Water mains.

A. Prior to ~~granting~~ receiving final approval of the subdivision or land development, the developer subdivider shall have installed or shall present his its agreement with the Town covering the installation of water mains in connection with the established system or shall provide an explanation of how and when the developer proposes to provide and install the required water supply.

B. Where special physical conditions exist that may act as constraints on normal development or may preclude development entirely, the developer may be required at the sole discretion of the Town Engineer to submit special technical data, studies, or investigations. This information, and any additional information requested by the Town Engineer pursuant to this subsection, must be prepared by individuals technically qualified to perform such work.

A- B. Water connections to the Town water system shall be properly installed and connected to the water system of the Town in accordance with the requirements and standards of the Town. The developer will be responsible for water infrastructure until final acceptance and official release of the completion guaranty, including repairs, if necessary, and other reasonable provisions for the convenience and safety of traffic. All costs and expenses relating to the installation and connection of the water service pipe shall be borne by the developer, including all upgrades or extensions to the Town's main related to the request. The developer shall indemnify the Town from any loss or damage that may, directly or indirectly, be occasioned by the installation of the water service pipe or lack thereof.

C. At the expense of the developer, the Town shall inspect all water main extensions, connections to the water mains, and maintain all water service lines from the water main to and including the curb cock and box or meter pit. The curb cock and box or meter pit shall be placed in back of the property line and shall be the property of the Town and under its control once all final inspections have been satisfied. This inspection will require an open-trench visual inspection.

§ 188-20. Sanitary sewers, culverts and storm sewers.

A. Prior to ~~granting~~ receiving final approval of the subdivision or land development, a developer the subdivider shall have installed or seeking to obtain approval to extend or connect to the sanitary sewer within the jurisdiction of the Town must coordinate the request with and obtain prior approval from the Town Engineer before submitting an application to the Town's wastewater service provider. In addition, the developer shall present his its agreement or shall provide an explanation how and when the developer proposes to provide and install the required with the Town covering the installation of storm sewers and sanitary sewers and their respective connections with the established systems in accordance with Town standards and requirements.

B. Prior to receiving final approval of the subdivision or land development, a developer seeking to obtain approval to extend or connect to the storm sewer within the jurisdiction of the Town must coordinate the request with and obtain prior approval from the Town Engineer before submitting an application to the Town Council. In addition, the developer shall present its agreement or provide an explanation how and when the developer proposes to provide and install the required storm sewers and their respective connections with the established systems in accordance with Town standards and requirements.

A- C. Sanitary sewer, culverts and storm sewers shall be properly installed and connected with the Town system or as determined by the Town Engineer or representatives of other agencies. The Town Engineer may request, at the applicants' expense, a downstream analysis of the sanitary sewer and storm drain systems in order to ascertain adequate capacity and safe conveyance of the systems. The

developer will be responsible for culverts and storm sewers infrastructure until final acceptance and official release of the completion guaranty, including repairs, if necessary, and other reasonable provisions for the convenience and safety of traffic. The developer shall indemnify the Town from any loss or damage that may, directly or indirectly, be occasioned by the installation of the sanitary sewer, culvert(s), and storm sewer or lack thereof.

§ 188-21. Design criteria for street blocks.

The design criteria for street blocks are as follows:

A. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by Chapter 220, Zoning, and to provide for convenient access, circulation control and safety of street traffic;

B. Residential blocks shall not exceed 1,200 feet in length, and in residential blocks over 800 feet in length a pedestrian crossway shall be provided in locations deemed necessary by the Town ~~Council~~ Engineer. Such walkways shall be 10 feet wide and be straight from street to street. There shall be installed a five-foot walk paved in accordance with the Town specifications. Lots abutting such a walk shall be treated as a corner lot.

§ 188-22. Street design.

Streets shall be designed to conform to the design standard set forth in this chapter and shall be paved in accordance with specifications for the paving of the streets established by the Town. The requirements for street designs shall be as follows:

A. The arrangement of streets shall be such as to provide for the appropriate extension of existing streets.

B. The design of subdivision streets ~~is to~~ shall be in accordance with the latest standards published by the American Association of State Highway and Transportation Officials, the ~~State of Delaware~~ DELDOT Division of Highways Rules and Regulations for Subdivision Streets, DELDOT Development Coordination Manual (<https://deldot.gov/Business/subdivisions/>), and this chapter. ~~Where conflicts exist, this chapter shall take precedence. However, if after sufficient studies and information are submitted and approved by the Town Engineer, the Town Council may consider and approve a lesser pavement standard.~~

C. Traffic controls and pavement markings shall conform to the Delaware Department of Transportation Bureau of Traffic Signing and Striping Guidelines.

D. Entrances onto existing state-maintained and Town-maintained streets shall be designed in accordance with the ~~Delaware Department of Transportation~~ DELDOT Division of Highways Standards and Regulations for Access to State Highways, latest edition.

E. Minor streets shall be designed to discourage through traffic.

F. Subdivisions abutting arterial streets shall provide a service street, and reserve frontage with a buffer strip for planting, or some other means of separation of through and local traffic as the Town ~~Council~~ may determine appropriate.

G. The minimum right-of-way shall be measured from lot line to lot line, and measured in accordance with the following schedule:

- (1) Arterial streets: 120 feet;
- (2) Major collector streets: 80 feet;
- (3) Minor collector streets: 60 feet;
- (4) Minor streets: 50 feet;
- (5) ~~Alleys~~ Interior streets: 25 feet.

H. The Town assumes, while retaining all controls over the dedicated rights-of-way, no responsibility for:

(1) Maintenance of the dedicated portion of the right-of-way beyond the back of curb or present edge of pavement where no curb exists.

(2) Cutting of grass in any portion of the right-of-way.

I. Minimum street widths within a subdivision shall conform to the following: -

(1) Minor streets shall be 32 feet wide from back of curb to back of curb with Integral PCC Curb and Gutter, Type 3 required.

(2) Minor collector streets shall be 40 feet wide from back of curb to back of curb with Integral PCC Curb and Gutter, Type 3 required.

(3) Major collector streets shall be divided and a minimum of 24 feet wide from back of curb to back of curb per direction of travel with Integral PCC Curb and Gutter, Type 3. A landscape island a minimum of eight feet in width shall separate travel lanes. PCC Curb, Type 1 or Integral PCC Curb and Gutter, Type 3 shall be required for the island.

(4) Arterial street widths will be considered carefully by the Town Council and will be determined after conferring with other outside agencies.

(5) Alleys to be dedicated to the Town of Milton shall be ~~45~~ 16 feet wide inside curb to inside curb with either Integral PCC Curb and Gutter, Type 2 or Type 3.

J. Integral PCC Curb and Gutter, Type 3 curbs shall be placed on both sides of the street in accordance with specifications of the Town.

K. Horizontal curves on minor streets shall have a minimum radius of 150 feet and a minimum sight distance of 150 feet. Minor collector streets shall have a minimum radius of 300 feet and a minimum sight distance of 200 feet. Major collector streets shall have a minimum radius of 500 feet and a minimum sight distance of 225 feet.

L. Subdivisions that adjoin or include existing streets that do not conform to the street requirements of this section shall dedicate additional width along either or both sides of the street.

M. Grades of arterial and collector streets shall not exceed 4%. Grades on other streets shall not exceed 10%. No street shall have a minimum grade of less than 3/10 of 1%.

N. Street intersections shall be as nearly at right angles as possible and in no case be less than 60°. The block corners at intersections shall be rounded at the curblines with the curb having a radius not less than 25 feet.

O. Street jogs with center-line offsets of less than 125 feet shall be prohibited.

P. A tangent of at least 100 feet long shall be introduced between reverse curves.

Q. When connecting street lines deflect from each other at any one point by more than 10°, they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.

R. All changes in grade shall be connected by vertical curves of sufficient length.

S. ~~Dead-end streets and culs-de-sac~~ Culs-de-sac shall not be longer than ~~400~~ 800 feet and shall provide a turnaround at the end with a minimum paving radius of 40 feet. If a street is of a temporary nature, a similar turnaround shall be provided and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.

T. The maximum length of a dead-end street (as measured from the nearest approved turn-around area) shall not exceed 300 feet without an additional alternative turnaround as approved by the Delaware State Fire Marshal's Office.

~~T.~~ U. No street shall have a name, ~~which~~ that will duplicate or so nearly duplicate as to be confused with the existing streets. Continuation of an existing street shall have the same name. A street name sign identical to those already established in the area or of a design and material specified by the Town shall be installed in a base at each street intersection in accordance with the specifications of the Town.

~~U.~~ V. Sidewalks shall be placed on both sides of the street and separated from the curb by a grass strip or landscaped buffer area of at least three feet in width on minor streets, at least four feet in width on

minor collector streets and at least six feet in width along major collector streets and installed in accordance with the specifications of the Town for design and material.

~~V.~~ W. Streetlighting shall be installed at street intersections, on curves, and at the end of dead-end streets and shall be spaced a maximum of 300 feet apart along a straight street. The cost of the installation of the streetlights shall be borne by the developer. All electric lines shall be located underground. The developer shall pay the cost of the electricity for the streetlights until final construction of streets is completed and the street is accepted by the Town of Milton.

~~W.~~ X. Shade trees are to be located in back of the ~~curbline~~ curb line so as not to interfere with the utilities, sight lines, sidewalks or driveways.

~~X.~~ Y. Where buffer yards are required or proposed, they shall be planted with growth of such type and quality to produce from time of planting a screening hedge of such density and height to effectively perform its purpose the year round. Such proposed planting should be reviewed by the Town Council prior to approval of the subdivision.

Table I **Street Specifications for Subdivisions**

General.

~~Subdivision streets shall be designed to the standards of the Town of Milton. The following outlines the requirements for a subdivision street typical section design.~~

Pavement Design.

~~The design of the pavement sections for subdivision streets shall be as per table, the anticipated number of units utilizing the streets and utilization of the streets by construction traffic.~~

~~The required structural numbers and examples of acceptable pavement sections are shown in the attached tabulation.~~

~~Under drains to drain wet areas shall be placed as directed by the engineer of the developer with concurrence by Town Engineers.~~

Commercial and Light Industrial Park Streets.

~~Streets serving light industrial or commercial sites shall be constructed, at a minimum, to the same standards as minor collector streets.~~

Pavement Sections.

~~Pavement sections are to be designed based on the number of single family units utilizing the planned street. The pavement sections listed below are provided as the required structural numbers, but other sections, which meet the structural number requirement, are acceptable. Four rules apply however:~~

- ~~A. At least three inches of hot mix, in two courses, must be provided, four inches on collector streets.~~
- ~~B. At least eight inches of graded aggregate, Type A (CR-1) must be provided.~~
- ~~C. Hot mix may only be applied over premixed (CR-1), not directly over select borrow.~~
- ~~D. Undisturbed subgrade cannot be counted in structural number calculations.~~

~~The pavement section of streets built to serve a future area of development shall be increased in strength to serve both the present and future traffic loads. If such a street must also serve construction traffic of future development, the pavement sections shall again be increased in strength as follows:~~

Number of Units Proposed for Future Development Area Increase in Structural Number

Number of Units Proposed for Future Development Area Increase in Structural Number

1 to 100	0.48
Over 100	0.80

Number of Units Required Structural Number Example Pavement

Alley	2.30	1 1/4 inches—Type C 1 3/4 inches—Type B 8 inches—Graded Aggregate\SN = 2.32
1 to 50	2.70	1 1/4 inches—Type C 1 3/4 inches—Type B 11 inches—Graded Aggregate\SN = 2.74
51 to 100	2.90	1 1/2 inches—Type C 2 inches—Type B 11 inches—Graded Aggregate\SN = 2.94
101 to 200	3.30	1 1/2 inches—Type C 3 inches—Type B 11 inches—Graded Aggregate\SN = 3.34
201 to 300	3.80	1 3/4 inches—Type C 4 inches—Type B 11 inches—Graded Aggregate\SN = 3.80
Over 300	4.10	1 3/4 inches—Type C 4 inches—Type B 11 inches—Graded Aggregate\SN = 4.20

Tabulation of Structural Numbers

Use	Material	Structural Number for Inch Thickness
Surface course	Hot mix, Type C	0.40
Binder course	Hot mix, Type B	0.40
Base course	Select borrow	0.08
	Quarry waste	0.11
	Graded aggregate, Type A (CR-1)	0.14
	Bituminous concrete	0.32

§ 188-23. Street construction, ~~and maintenance~~ and drainage.

A. Streets, including but not limited to the final layer of blacktop, and sidewalks shall be completed by the time 80% of the lots in the subdivision or the phase, if the subdivision is constructed in phases, are either sold or built upon, or by the time five years have passed since the final approval for a subdivision or the phase, whichever occurs first, unless otherwise approved by the Mayor and Council for good cause shown.

B. The developer shall be responsible for streets and sidewalks until final acceptance and official release of the completion guaranty, including repairs, if necessary, and other reasonable provisions for the convenience and safety of traffic. Until final acceptance and official release of the completion guaranty, the developer shall be responsible, also, for the removal of snow from streets when necessary for the convenience or safety of traffic.

C. All drainage facilities shall be constructed in accordance with minimum construction standards established by the Town Engineer or other Town designee or the standards most recently adopted by DELDOT in areas where it has jurisdiction.

D. Where the proposed subdivision or land development will result in increased quantities of stormwater runoff leaving the area to be developed, the developer shall demonstrate that off-site drainage improvements are adequate to handle the additional water and that all new or expanded swales, pipes or other off-site improvements are located in dedicated easements that permit efficient access for maintenance purposes. Minimum standards shall be those established by the Town Engineer or DELDOT where it has jurisdiction.

§ 188-24. Parking.

Sufficient parking spaces shall be provided as required by Chapter 220, Zoning, and this chapter.

§ 188-25. Land subject to flooding; uninhabitable land.

~~Land subject to flooding and land deemed by the Town Council to be uninhabitable shall not be plotted for residential occupancy nor for such other uses that may increase the danger to health, property, or aggravate the flood hazard. Such land within the plot shall be set aside for such uses as will not be endangered by periodic or occasional inundation, will not produce unsatisfactory living conditions and shall be adequately drained and filled in accordance with regulations of any governmental body having jurisdiction over the same. Such land will not be calculated as open space, but will be included when calculating the total acreage for open space.~~

A. Land that is unsuitable for subdivision or land development due to flooding, improper drainage, steep slopes, adverse earth formations or topography, utility easements or other features that will be reasonably harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision or its surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Town Engineer and the applicable rules and regulations of the State Department of Natural Resources and Environmental Control and DELDOT to solve the problems created by the unsuitable land conditions. Such lands shall be set aside as open space and shall not involve such a danger.

B. Cut or fill should be limited to those instances where it is required to achieve acceptable street grades, parking areas or building sites or where it will be used to enhance the site, such as by berms or swales that add visual interest or perform a useful function, such as screening or drainage.

C. Subdivision and land development planning shall take into consideration critical areas, waterways, natural topography, vegetation, sustainability, and especially historic spots, landmarks and social impacts.

§ 188-26. ~~Plat~~ Preliminary and record plan requirements.

A. The ~~plat~~ record plan, as required under provisions of this chapter, shall:

(1) Be drawn in a clear and legible manner;

(2) Be prepared by a registered Delaware land surveyor or engineer; and

(3) Be prepared at a minimum scale of one-inch equals 100 feet, and shall be drawn on sheets not more than twenty-four by thirty-six (24 x 36) inches in size, including a margin of one-half (1/2) inch

outside the ruled border lines; except that these requirements are not applicable to construction plans or drawings required by other agencies;

(4) Have all dimensions and bearings of lines and all areas based upon a field survey of sufficient accuracy and detail that the data shown thereon may be reproduced on the ground, with all bearings, distances, areas and other dimensions true and correct to the accuracy required by accepted surveying standards;

(5) Show the general plan for the ultimate development of the property, including as much of the surrounding area as may be necessary for an adequate consideration of the land to be subdivided or developed;

(6) Provide all other pertinent, accurate and reliable information on existing site conditions, property ownership, use of any components of the Town's sustainability plan recommendations, and the like that may be necessary for the Planning and Zoning Commission and Town Council to properly consider the proposed subdivision; and

A. (7) Include all recommendations made by the Town Council and the Planning and Zoning Commission following review and discussion, if so undertaken, and all subsequent requirements as may be set forth by this chapter and other official agencies.

B. Be drawn to scale and on paper 24 inches by 36 inches. If the plat plan is drawn in two or more sections, a key map showing the location of the several parts shall accompany it.

C. B. Preliminary plan requirements -- The plat preliminary plan shall show the following:

(1) The proposed subdivision name or identifying title that shall not duplicate or closely approximate the name of any other subdivision in the Town or Sussex County.

(2) The name and address of the owner of record and the developer.

(3) The name, address, license number and seal of the licensed land surveyor or engineer.

(4) A space for signature by the Mayor and Secretary of the Town Council approving the application and the date of approval, to be provided as follows:

This map has been approved by the Town Council of the Town of Milton at a meeting held on

The Town of Milton

By:

Mayor

Attest:

Secretary

(5) (4) The date of the survey.

(6) (5) The reference meridian for bearings on the map shall be shown graphically and definitely described. Magnetic bearings shall show the date of observation. State Plane Bearing system is preferred. The North Point should always be at the top of the plan.

(7) (6) The graphic scale.

(8) (7) ~~Boundaries of the project must be submitted as a scale drawing with the scale used indicated on the drawing and be shown in heavy outline.~~ The location of existing property lines, streets and alleys, easements, buildings, utilities, wooded areas and waterways; soils classification; and any other significant natural or man-made physical features affecting the proposed subdivision.

(9) (8) A location map at a scale not less than 800 feet to the inch showing the relation of the property to adjoining property and to all streets, roads, watercourses, natural and artificial, streams, shorelines, or other water boundaries and all municipal boundary lines crossing or adjacent to the property and existing within 1,000 feet from any part of the property proposed for subdivision.

(10) (9) The names of all subdivisions immediately adjacent, and the names of all owners of immediately adjacent lands, zoning, the block and lot number of each, the Sussex County Tax Map and parcel number and the property lines of the land to be subdivided.

~~(11) (10) The full plan of the development, including all lot lines and their dimensions, streets, roads, parking areas and alleys, utility easements, parks, playgrounds and other public areas indicating which are to be dedicated to public use and which are being reserved by the owner, and the conditions of such dedications or reservations, the proposed names of all new streets and building setback lines for each street. The layout, width and names of all streets, alleys, crosswalkways and easements proposed to be dedicated for public use. Street names shall neither duplicate nor closely resemble existing street names in the same hundred or postal district, except for extensions of existing streets.~~

~~(11) The layout, consecutive numbering and approximate dimensions and areas of all proposed lots or parcels and the lettering of blocks.~~

~~(12) Provision for buffer areas and other landscaping.~~

~~(13) The location, design and size of all signs and lighting facilities.~~

~~(14) The locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.~~

~~(15) The location and design of all energy distribution facilities, including electrical, gas and solar energy.~~

~~(16) (15) Location for stormwater management facilities~~ The proposed locations and sizes for all utilities and drainage facilities including stormwater Best Management Practices.

~~(17) (16) The lines and dimensions of all property which that is offered, or is to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.~~

~~(18) (17) Right-of-way lines~~ The location of all wetlands (both state and federal) shall be indicated, in order to facilitate compliance with state and federal wetlands requirements.

~~(19) (18) Easements~~ The location of the one-hundred-year floodplains based on current Flood Insurance Rate Maps and the location and dimensions of all areas designated as a Source Water Protection Area ("SWPA") by the Town.

~~(20) (19) Notations and descriptions of deed restrictions, if any.~~

~~(21) (20) Dimension from center line of site entrance to center line of nearest road intersection.~~

~~(22) All existing watercourses, tree masses, and other significant features within the boundaries of the plat.~~

~~(23) (21) A plan for surface drainage of the development approved and sealed by Delaware Soil Conservation District~~ The proposed grading plan when excavation, recontouring or similar work is to occur in conjunction with development of the subdivision.

~~(24) (22) Contours at one-foot intervals~~ Topographic contours at one-foot intervals and referenced to United States Geological Survey data or other commonly accepted data. Where unusual conditions, such as steep slopes, create problems in drafting contour lines, a greater interval may be used if other information is provided to adequately describe the true nature of the topography.

~~(25) (23) The designs of any bridges or culverts, which that may be required by and as approved by the Town Engineer.~~

~~(26) (24) The plan for connecting to the water supply system of the Town as approved by the Town Engineer.~~

~~(27) (25) The plan for connecting to the sewer system of the Town as approved by the Town Engineer and Town's wastewater service provider.~~

~~(28) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every boundary line, street line, or lot line so as to reproduce the lines upon the grounds; and the length of all straight lines, deflection angles, radii, lengths of curves and central angles of all curves, tangent distances and tangent bearings for each street. All dimensions and angles or bearings of the lines of each lot shall also be given. All dimensions shall be shown in feet and hundredths of a foot.~~

~~(29)~~ (26) By legend and symbol, the monuments established in accordance with the above, distinction being made between ~~monuments which were found and monuments which were placed on the tract boundary and those set for survey control~~ existing and proposed.

~~(30)~~ All lot corner markers which are required to be permanently located in the ground to the proposed grade and to the satisfaction of the Town Engineer.

~~(31)~~ (27) Where the ~~plat~~ preliminary plan submitted covers only a part of the ~~subdivider's~~ developer's entire holding, a sketch of the unsubmitted part shall be furnished; and the street system of the submitted part will be considered in the light of adjustments and connections with the future system of the part not submitted.

~~(32)~~ (28) A data column with the following existing and proposed information:

- (a) Total acreage within project.
- (b) Total acreage within open space.
- (c) Total acreage/square footage within lots.
- (d) Number of lots.
- (e) Dwelling units (type and number).
- (f) Average lot area.
- (g) Minimum lot area.
- (h) Maximum lot area.
- (i) Density.
- (j) The zoning classification of property.
- (k) Number of permanent monuments (also locate and describe on plan).
- (l) Sussex County property identification number.
- (m) Percentage of impervious surface coverage of parcel.

[1] Paving.

[2] Buildings.

(n) Wetlands.

(o) SWPAs.

~~(33)~~ (29) In case of proposed streets being dedicated to public use, add the following note:

(a) "Subdivision streets constructed within the limits of the right-of-way dedicated to the public use shown on this plan are to be maintained by the Town of Milton following the completion of the streets by the developer to the satisfaction of the Town. The Town assumes no maintenance responsibilities within the dedicated street right-of-way until the Town has accepted the streets."

~~(34)~~ (30) Owner's certification as follows: "I, _____, hereby certify that I am the owner of the property described and shown on this plan and that the plan was made at my direction*, and that I acknowledge the same to be my act and desire the plan to be recorded according to law." (NOTE: * In the case of proposed streets to be dedicated, add the following after the word "direction" to the above certification: "...that all streets shown hereon and not heretofore dedicated are hereby dedicated to the public use and that all proposed monuments and markers shown hereon will be set at the location indicated,")

Date _____ Signature _____

~~(35)~~ (31) Engineer's, or land surveyor's or architect's certification as follows:

I, _____, hereby certify that I am a registered engineer, or land surveyor, or architect in the State of Delaware, that the information shown hereon has been prepared under my supervision and to my best knowledge and belief represents good engineering, and surveying, and/or architectural practices as required by the applicable laws of the State of Delaware.

Date _____ Seal _____ Signature _____

C. Supporting statements for the preliminary plan -- The preliminary plan shall be accompanied by the following written and signed statements in support of the application for preliminary approval:

(1) Statements explaining how and when the developer proposes to provide and install the required water supply, sewers or other means of sewage disposal, street pavements and drainage structures;

(2) Statements concerning any proposed deed restrictions to be imposed;

(3) Where special physical conditions exist that may act as constraints on normal development or may preclude development totally, the developer may be required to submit special technical data, studies or investigations. This information must be prepared by individuals technically qualified to perform such work. Additional information may include but is not limited to the following: historical and cultural studies, traffic studies, stormwater runoff computations and identification of areas subject to periodic flooding;

(4) If special conditions are found to exist, the Town shall not approve a preliminary plan until it is determined that it is technically feasible to overcome such conditions. The Town may then require the developer to incorporate specific improvement design criteria into the plan as a condition to its approval;

(5) When special studies or investigations pertain to a regulatory program of another public agency, the developer shall submit the results of these studies or investigations to said public agencies for technical review and approval. Written comments from these agencies shall be supplied to the Town by the developer; and

(6) Statements explaining how and when the developer proposes to provide for the perpetual maintenance of open space and buffer strips, if required.

D. Final record plan requirements – For final approval, the record plan shall be legibly and accurately drawn and shall show the following:

(1) All information as required for the preliminary plan except topographic contours and drainage layout and construction drawings.

(2) The name under which the subdivision is to be recorded.

(3) The scale, date, North point and location map showing the general location of the subdivision in relation to its surroundings.

(4) Bearings and distances for all boundary lines of the subdivision or land development.

(5) The locations and descriptions of all permanent survey monuments.

(6) The names and locations of adjacent subdivisions and the location of adjoining parcels of land, with the names of the owners of record. One of the corners shall be referenced to the nearest intersection to two roads.

(7) The locations, dimensions and names of all streets and alleys within and adjoining the subdivision, with the lengths and bearings of tangents, dimensions of sight easements, the lengths of arcs and radii, internal angles, points of curvature and any other necessary surveying data.

(8) The locations, dimensions and bearings of all lot lines, and the area of every lot or parcel designated.

(9) Lots numbered in consecutive numerical order and blocks lettered consecutively.

(10) The locations, dimensions and purposes of all crosswalkways, shared use paths, easements and other public ways.

(11) The locations, dimensions and purposes of any other property offered for dedication or to be reserved for acquisition for public use or to be reserved by deed covenant for the common use of property owners in the subdivision.

(12) A typical street section of the street construction design.

(13) A space for signature by the Mayor and Secretary of the Town Council and the date of approval, to be provided as follows:

This map has been approved by the Town Council of the Town of Milton at a meeting held on

The Town of Milton

By:

Mayor

Attest:

Secretary

(14) Owner's certification as follows:

"I, _____, hereby certify that I am the owner of the property described and shown on this plan and that the plan was made at my direction*, and that I acknowledge the same to be my act and desire the plan to be recorded according to law." (NOTE: * In the case of proposed streets to be dedicated, add the following after the word "direction" to the above certification: "...that all streets shown hereon and not heretofore dedicated are hereby dedicated to the public use and that all proposed monuments and markers shown hereon will be set at the location indicated,".)

Date _____ Signature _____

(15) Engineer's, or land surveyor's certification as follows:

I, _____, hereby certify that I am a registered engineer and land surveyor, or architect in the State of Delaware, that the information shown hereon has been prepared under my supervision and to my best knowledge and belief represents good engineering, surveying, and/or architectural practices as required by the applicable laws of the State of Delaware.

Date _____ Seal _____ Signature _____

(16) The locations, bearings and dimensions and area of any land set aside for forested buffer strips, if required.

(17) The location of all wetlands (both state and federal) shall be indicated by legal description with bearings and distances with each flag point numbered. A signed and dated statement by an experienced qualified professional shall be provided verifying the accuracy of the delineation. If the site contains no wetlands, then the plan must contain the appropriate statement from the same professional. Building lots containing wetlands shall be identified by a notation stating that "construction activities within these sites may require a permit from the United States Army Corps. of Engineers or the State of Delaware."

(18) The location and dimensions of all areas designated as a SWPA by the Town within the area to be subdivided or developed.

(19) A space for the signature of an authorized representative of the Sussex Conservation District approving the location and design of all stormwater management areas and erosion and sediment control facilities which shall be shown on the final record plan.

(20) The locations, dimensions and purposes of all open space areas. The legend or plan notes must show a breakdown of acreages, both gross and net, of open space, the percentage of impervious cover area, the percentage of open space to total gross acreage and the total acreage of proposed streets, roads, parking lots, alleys and ways used for vehicle access and multimodal paths located within state rights-of-way.

§ 188-27. Documents to accompany ~~plat~~ record plan.

The following shall be filed with the ~~plat~~ record plan:

A. Certificate of title showing ownership of the land to be vested in the ~~subdivider~~ developer or other applicant for approval.

B. Street profiles and cross-sections for all streets ~~which~~ that shall have been approved by the Town Engineer.

C. Certificate of Town Engineer as follows: "I have carefully examined this map and find it conforms with all the laws of the State of Delaware and the ordinances of the Town of Milton."

D. Cost estimate for any required improvements as per § 188-37 of this chapter.

E. Performance guarantee in accordance with § 188-37 of this chapter.

F. Copy of such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition of sale, together with a statement of any restrictions previously imposed ~~which~~ that may affect title of the land being subdivided. Such restrictions shall be satisfactory to the Town Council and shall provide, in the case of any lot intended for residential use, against further division thereof by the grantee without obtaining approval of the Town Council.

G. Copy of the certificate of final approval of any other official body ~~which~~ that may become involved or have an official interest in the development.

H. Separate, approved Sussex Conservation and DNREC construction plans shall be submitted as part of the final record plan requirements.

§ 188-28. Partitioning.

A. An application for partitioning of a lot shall be made on a form supplied by the Town Council, together with a ~~plat~~-plan/map, prepared by and attested to by a licensed surveyor or engineer, showing the property to be divided and showing the entire frontage of the proposed partitioned lots, and that of the adjoining properties of the proposed partition. The application, ~~plat~~ plan and the required fees shall be submitted to the Town Clerk for recording prior to forwarding to the Town Council. The required fees shall be the fees established in the currently effective Town of Milton Fee Schedule.

~~B.~~ C. The Town Council may approve partitioning applications ~~which~~ that are found to meet all of the requirements of this chapter and Chapter 220, Zoning. ~~A record of all partitions and one copy of the approved plat shall be kept by the Town Council and reflected in the minutes of the Town Council.~~ Additionally, existing lots less than 20,000 square feet zoned R-1 and located in the Town boundaries prior to the adoption and effect of the Town's original Zoning Ordinance (1987) may file for partitioning of the existing lot to the minimum size of 7,500 square feet, except that minimum width and depth for R-1 zoning is required, the combining of lots or moving of any existing structures is not permitted, and the minimum setback from existing structures to property lines is required.

~~B. C.~~ The applicant/partitioner shall submit the approved ~~plats~~-plan, within 90 days from the approved date, to the office of the Recorder of Deeds, in and for Sussex County for recording. If any approved ~~plat~~ plan is not filed within that period, the approval of such partition shall expire. The Town Council, for good cause shown, may extend the time for filing of the ~~plat~~ plan for a period not to exceed 90 days. A record of all partitions and one copy of the approved plan shall be kept by the Town and reflected in the records retained by the Town.

~~C. D.~~ If the Town Council disapproves a partition application, a written notice shall be returned to the applicant stating the basis for such disapproval. Reasons for disapproval shall be remedied prior to any resubmission.

§ 188-29. Sketch plan to accompany application for subdivision or land development.

The owner of any land within the Town may submit to the Town Council a sketch plan of a subdivision or land development for purposes of discussion and classification pursuant to the provisions of §§ 188-30 through 188-32 of this chapter. The sketch plan shall be submitted two weeks before the regularly scheduled meeting of the Town Council. The sketch plan may be drawn by the applicant but due care should be taken that all information shown thereon is accurate. This sketch plan is for information purposes only and does not constitute approval for any subdivision. The Town

Council may make comments back to the applicant in verbal or written form. Verbal comment will be given at the regularly scheduled meeting or written comments may be made within three weeks after the regularly scheduled meeting.

§ 188-30. Procedure for approval of minor subdivision.

The procedure for the approval of a minor subdivision shall be as follows:

A. An application for a minor subdivision shall be made on a form supplied by the Town ~~Council~~ and shall be filed at least two weeks prior to the regularly scheduled meeting of the Town Council with the required fees, in the amount specified in the ~~ordinance~~ current Fee Schedule adopted by the Town Council, for the Town Clerk's acceptance and recording prior to consideration by the Town Council. ~~For subdivision fees, please consult the currently effective Town of Milton Fee Schedule.~~

B. The applicant shall supply at least ~~20~~ five copies of a ~~plat~~ plan prepared by and attested to by a professional licensed surveyor or professional engineer. Such ~~plat~~ plan shall show its location, surrounding properties, roads or other applicable details, and the proposed subdivision layout as ~~platted~~ plotted from deed, Tax Map, and/or survey and in accordance with this chapter, ~~which will assure legibility.~~

C. The Town Council shall review the application and forward the ~~plat~~ plan to the Planning and Zoning Commission for their recommendations and review.

D. The Planning and Zoning Commission shall review the ~~plat~~ plan for accuracy and receive from the applicant any outside agency recommendations. The Planning and Zoning Commission shall send their recommendations to the Town Council.

E. The Town Council shall review all recommendations, making certain that all of the requirements set forth in this chapter and Chapter 220, Zoning, have been satisfied before the approval of a minor subdivision.

F. If the Town Council disapproves a minor subdivision application, a written notice shall be returned to the applicant. Reasons for disapproval shall be remedied prior to any resubmission.

G. A copy of the ~~plat~~ plan, as approved by the Town Council, shall be filed by the ~~subdivider~~/applicant with the office of the Recorder of Deeds, in and for Sussex County, within 90 days from the date of such approval. If the approved final ~~plat~~ plan is not filed within the ninety-day period, the approval of such minor subdivision shall expire. The Town Council, for good cause shown, may extend the time for filing of the ~~plat~~ plan for a period not to exceed 90 days.

§ 188-31. Procedure for preliminary plan approval of major subdivision or land development.

The procedure for the preliminary plan approval of a major subdivision or land development shall be as follows:

A. An application for a major subdivision or land development shall be made on a form supplied by the Town ~~Council~~ and shall be filed at least two weeks prior to the regularly scheduled meeting of the Town Council with the required fees, in the amount specified in the ~~ordinance~~ current Fee Schedule adopted by the Town Council, for the Town Clerk's acceptance and recording prior to consideration by the Town Council. ~~For subdivision fees, please consult the currently effective Town of Milton Fee Schedule.~~

B. The applicant shall supply at least ~~20~~ five copies of the ~~subdivision-plat~~ preliminary plan prepared by and attested to by a professional licensed surveyor or professional engineer. Such ~~plat~~ preliminary plan shall show its location, surrounding properties, roads or other applicable details, and the proposed subdivision layout as ~~platted~~ plotted from deed, Tax Map, and/or survey and in accordance with this chapter, ~~which that will assure legibility.~~

C. The Town Council shall review the application and ~~plat~~ preliminary plan and forward the ~~plat~~ preliminary plan with any initial comments to the Planning and Zoning Commission for their review and recommendations.

D. The Planning and Zoning Commission ~~will~~ shall place the ~~subdivision~~ preliminary plan application on the agenda for a public hearing. The Planning and Zoning Commission minutes shall collect all public input and technical recommendations from the public hearing.

E. The Planning and Zoning Commission shall review the ~~plat~~ preliminary plan to ensure that it meets the requirements set forth in all Town ordinances, giving attention to open spaces and community needs. The recommendations from those attending the public hearing shall be given careful consideration in the review process.

F. Once the Planning and Zoning Commission ~~satisfies~~ is satisfied that all requirements from the Town ordinances are met, the Planning and Zoning Commission shall give preliminary ~~site~~ plan approval.

G. Once the preliminary ~~site~~ plan has received approval from the Planning and Zoning Commission, the applicant shall contact or file with all necessary agencies for their review and approval prior to the applicant coming back before the Planning and Zoning Commission and the Town Council for final record plan approval. After receiving approvals from the outside agencies if the approved preliminary ~~site~~ plan has not been changed significantly, the applicant may apply for final ~~site~~ record plan approval. Significant change will be at the discretion of the Planning and Zoning Commission.

H. The approval for the preliminary ~~site~~ plan subdivision shall expire within one year after the date of the approval by the Planning and Zoning Commission. The Planning and Zoning Commission may grant an extension for a period of up to one year if the applicant shows just cause for the delay.

I. If the Planning and Zoning Commission disapproves the preliminary ~~major-subdivision-site~~ plan application, a written notice shall be returned to the applicant within 15 working days stating the basis for such disapproval. Reasons for disapproval shall be remedied prior to any resubmission to the Commission.

§ 188-32. Procedure for final approval of major subdivision or land development.

Final approval of a major subdivision or land development shall be in accordance with the following procedure:

A. Application for approval of a major subdivision or land development will be presented by the developer, owner or ~~his~~ its agent to the Town Clerk on forms supplied by the Town ~~Council~~ at least 21 days in advance of a regular scheduled meeting of the Planning and Zoning Commission.

B. The applicant shall supply at least ~~20~~ five copies of the ~~subdivision-plat~~ proposed final record plan prepared by and attested to by a licensed surveyor. Such ~~plat~~ plan shall show its location, surrounding properties, roads or other applicable details, and the proposed subdivision or land development layout as platted from deed, Tax Map, and/or survey and in accordance with this chapter, ~~which will assure legibility~~. The applicant will present to the Town ~~Clerk~~ all approvals from the outside agencies (including but not limited to signed topographic ~~plats~~ plans, water designs, sewage designs, stormwater management designs, highway access or curb cuts).

C. The Town ~~Clerk~~ shall receive the application and all required ~~plats~~ plans and material, and shall acknowledge receipt in a proper space on the application. ~~He or she~~ The Town shall return one copy to the developer, owner or its agent as their receipt and file one copy as the record of receipt.

D. The Town ~~Clerk~~ shall, upon receipt of the application, make certain that all material required accompanies the application. If the owner or its agent has failed to provide all required material, the Town ~~Clerk~~ shall so advise the developer, owner or its agent, in writing, and return all material received, except the application, for resubmission. If all required material is in order, the Town ~~Clerk~~ shall place the application on the agenda of the next regular scheduled Planning and Zoning Commission meeting and forward a copy of the application together with the prints of the ~~plat~~ plan and

other required material to the Planning and Zoning Commission for ~~their~~ its review and ~~decision~~ recommendation.

E. The Planning and Zoning Commission shall review the ~~plat~~ plan for final approval of a major subdivision or land development and all the required material, making certain that all the requirements and conditions set forth in this chapter and the other Town ordinances have been satisfied. If the developer, owner or his agent fails to satisfy all of the requirements, the Planning and Zoning Commission shall so advise, in writing, and return all material required, except the application and one copy of the ~~plat~~ plan, for correction or addition thereto and resubmission.

F. Once the final site record plan has received approval from the Planning and Zoning Commission, the application and approved ~~final plat~~ record plan will be forward to the Town Council for ~~their~~ its approval.

G. The Town Council shall act on an application for final approval of ~~a major subdivision, which that~~ it has found to be in order, within 90 days. Upon final approval by the Town Council of any application, the Mayor and Secretary of the Town Council ~~approving such application~~ shall sign the ~~plat~~ record plan and the application and shall have three copies of the ~~plat~~ record plan for distribution to the Board of Assessment, Town Engineer and the Code Enforcement Officer. Three signed ~~plats~~ plans will be returned to the ~~applicant/owner developer, owner, or applicant~~.

H. The ~~applicant/owner developer, owner, or applicant~~ shall be responsible for recording the approved ~~plat~~ record plan with the office of the Recorder of Deeds, in and for Sussex County, within 90 days from the date of such approval. The Town Council, for good cause shown, may extend the time for the filing of the ~~plat~~ record plan for a period not to exceed 90 days. No ~~plat~~ record plan shall be filed for the development of a subdivision or land development in the Recorder of Deeds, in and for Sussex County, unless the Town Council has approved it.

§ 188-33. Minor lot line adjustments.

Town Council may approve minor lot line adjustments between two parcels for the purpose of small adjustments in boundaries for recordation after review and determination of compliance with all applicable zoning and subdivision regulations, provided:

A. The total area of the adjustment does not exceed 10% of the combined area of the lots affected by the adjustment.

B. No additional lots are created.

C. The owner submits a ~~plat~~ plan for review and approval. The requirements for the ~~plat~~ plan must contain all the information ~~as required by Table IV at the end of this chapter~~ required under § 188-26, as applicable.

D. Approval of the ~~plat~~ plan by the Town Council does not automatically transfer property. A separate deed must also be recorded to transfer the property being conveyed.

§ 188-34. Variances, modifications and waivers.

A. Where, in the case of a particular proposed subdivision or land development, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the ~~subdivider~~ developer because of unusual topography or other conditions ~~which that~~ are not self-imposed or that these conditions would result in inhibiting the achievement of the objectives of this chapter, the Town Council may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter or be contrary to the goals and objectives of the Comprehensive Plan for the Town of ~~Milton~~. In no case shall any variation, modification or waiver be more than a minimum easing of the requirements, and in no instance shall it result in any conflict with Chapter 220, Zoning.

B. Where land is proposed for development in accordance with the provisions of Chapter 220, Zoning, pertaining to the establishment of a Large Parcel Development District, the requirements and conditions for approval as set forth in Chapter 220, Zoning, shall prevail in case of any conflict with these regulations; provided, however, that nothing in this section shall be construed as permitting any exception from the requirements of these regulations with regard to the design, arrangement or improvement of streets and highways within any proposed Large Parcel Development District.

§ 188-35. Approval of variances, modifications and waivers.

A. Variances, modifications, and waivers from the requirements of this chapter shall be granted only by the affirmative vote from 2/3 of the members of the Town Council.

B. In granting variances, modifications, and waivers, the Town Council may require such conditions as will, in its judgment, substantially secure the objectives of the requirements so varied, modified, or waived.

C. Requests for variances, modifications, and waivers may be presented at a scheduled Town Council meeting. Such requests must be submitted to the Town Council at or before the normal deadline established by the Council.

D. This section does not apply to the requirements of other public agencies.

§ 188-36. Building permits and certificates of occupancy.

A. No building permit shall be issued, nor shall construction be authorized, by the Town of ~~Milton~~ on lands where a subdivision or land development plan is required to be approved and recorded as provided herein, until the compliance with this chapter and other applicable provisions has been determined by the Town Council.

B. No certificate of occupancy shall be issued until required improvements have been installed, constructed, or placed for the lot in a manner acceptable to the Town.

C. The Code Enforcement Officer and other designated Town officials have the duty and authority to enforce the regulations of this chapter, including reporting to the Town Council any violation or lack of compliance.

§ 188-37. Performance guarantees and warranty securities required.

A. As a condition of approval of improvement plans, the Town Council shall require the ~~subdivider~~ developer to post a performance bond or other guaranty for any improvements required by the applicant of this chapter in an amount sufficient to construct the improvements and in a form acceptable to the Town Solicitor and ~~or~~ Town Engineer. The applicant shall submit a detailed estimate for the cost of the improvements. ~~The~~ Except as otherwise provided in this chapter, the amount of such bond shall be no less than 125% of the cost of improvements. Bonding and guaranties shall be required for the following, or other improvements deemed necessary by the Town Council.

B. A bond or guaranty shall be furnished for the following:

- (1) Streets.
- (2) Street signs.
- (3) Sidewalks.
- (4) Curbs.
- (5) Streetlighting.
- (6) Shade trees.
- (7) Buffer yard plantings.
- (8) Grading fill topsoil and protection thereof.
- (9) Culverts and stormwater retention ponds.
- (10) Stormwater system.

- (11) Sanitary sewers.
- (12) Water mains.
- (13) All utilities (example: gas, electric and other mains, pipes and conduits).
- (14) Other public improvements identified in the subdivision plan.

C. Upon completion of all of the improvements covered under the original performance security and all guarantees and after as-builts have been approved by the Town Engineer, the developer shall post a warranty bond in the amount of 10% of the value of the original performance security or \$25,000, whichever is greater. The warranty security shall be in the form of a cash warranty bond, warranty surety bond, or warranty letter of credit. The warranty security shall remain in place until one year after completion, approval and acceptance of the improvements called for under §188-38.

§ 188-38. As-built plans.

Upon completion of each improvement and prior to the release of the developer's performance guaranty, the developer shall provide the Town of Milton detailed as-built plans, including horizontal and vertical locations. Five paper prints and two digital copies in CAD format acceptable to the Town shall be provided. Information to be provided shall include:

- A. The date of the survey;
- B. The graphic scale;
- C. The location of all water-supply lines and laterals to the individual lots in the development as well as valves, meters, fire hydrants and appurtenances;
- D. The location of all sewer lines and laterals to the individual lots in the development as well as manholes, inlets and cleanouts;
- E. The location of all storm sewer lines, drainage structures and stormwater management facilities in the development;
- F. Sufficient data to determine readily the location, bearing and length of every boundary line, street line, or lot line so as to reproduce the lines upon the grounds; and the length of all straight lines, deflection angles, radii, lengths of curves and central angles of all curves, tangent distances and tangent bearings for each ~~street-street~~;
- G. All dimensions and angles or bearings of the lines of each lot ~~shall also be given; and~~
- H. The location of all gas, phone, cable, fiber optic, electric and other mains, pipes and conduits in the subdivision or land development and outside of the subdivision or development if it was installed as a part of the subdivision or development.

§ 188-39. Acceptance of streets and utilities.

~~The Town Council shall arrange with the Town Solicitor for a search of title and the recording in the office of the Recorder of Deeds, in and for Sussex County, of a deed conveying title, free from all encumbrances and liens to property transferred by deed to the Town of Milton.~~

A. The developer shall be responsible for streets and sidewalks until final acceptance and official release of bond, including repairs, if necessary, and other reasonable provisions for the convenience and safety of traffic. The developer shall be responsible, also, for the removal of snow from streets when necessary for the convenience or safety of traffic until said final acceptance and official release of bond.

B. The Town Council, upon the developer's full compliance with the construction agreement, the filing of the required surety guaranty bond, and preparation of the documentation for the transfer of title to the Town of the streets and other areas to be dedicated to public use, shall arrange with the Town Solicitor for preparation and presentation to the Town Council of an appropriate resolution:

- (1) Accepting the streets and other areas dedicated to the public use; and
- (2) Authorizing and directing the incorporation of same in the Official Town Map.

§ 188-40. Final action.

Final action by the Town Council shall be taken upon certification to it by the Town Engineer, the Town staff, and Town Solicitor in their respective areas of responsibility and shall include:

- A. Accepting the construction improvements.
- B. All terms and conditions of the agreement, including submission of a satisfactory release of liens, have been met satisfactorily.
- C. Releasing the developer's completion guaranty.

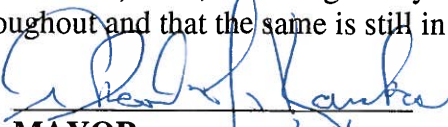
§ 188-41. Request for reconsideration.

A. Any applicant aggrieved by a finding, decision, or condition of the Town Council may request and shall receive opportunity to appear before the Town Council to present additional relevant information and request reconsideration of the original finding, decision, or condition within 15 days of receipt of notice of the finding or decision.

B. Notwithstanding Subsection A of this section, nothing in this chapter shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

Section 2. This Ordinance shall become effective on January 1, 2021.

I, **THEODORE J. KANAKOS**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the 5th day of October, **2020**, following a duly noticed public hearing, at which a quorum was present and voting throughout and that the same is still in full force and effect.



MAYOR
10/7/20

SYNOPSIS

This ordinance amends the Town Code's subdivision ordinance.